

DURHAM CITY COUNCIL WORK SESSION
Thursday, April 5, 2018 @ 1:00 p.m.
2nd Floor Committee Room – 101 City Hall Plaza

The Durham City Council held a Work Session on the above date and time in the City Council Committee Room located at 101 City Hall Plaza with the following members present: Mayor Steve Schewel, Mayor Pro Tempore Jillian Johnson and Council Members Vernetta Alston, Javiera Caballero, DeDreana Freeman, Mark-Anthony Middleton and Charlie Reece. Absent: None.

Also present: City Manager Tom Bonfield, City Attorney Patrick Baker and City Clerk Diana Schreiber.

Mayor Schewel called the meeting to order and welcomed all in attendance.

Council Member Reece stated that Council Member Freeman would be delayed in her arrival.

Taking the prerogative of the Chair, Mayor Schewel changed the order of the agenda to address Citizens' Matters prior to Announcements by Council.

Mayor Schewel asked for priority items from the City Manager, City Attorney and City Clerk.

There were no priority items by the City Manager, City Attorney and City Clerk.

Council Member Freeman arrived at the meeting at 1:06 p.m.

Mayor Schewel announced the items printed on the agenda and Item #1 was pulled for comment; and Item #5, Participatory Budgeting (PB)/Follow-Up was pulled for additional discussion.

Mayor Schewel addressed the Administrative Consent Item #1, Approval of City Council Minutes.

SUBJECT: APPROVAL OF CITY COUNCIL MINUTES (Item #1)

To approve the City Council minutes for the following meeting dates: January 11, 2018 (Special), January 16, 2018 (Special), January 16, 2018, January 23, 2018, February 2, 2018 (Special) and February 5, 2018.

Mayor Schewel requested that the minutes of Regular Council Meeting dated January 16, 2018, page 7 be revised to reflect Lizzy Ellis-Furlong as a proponent rather than opponent.

Mayor Schewel announced it was time for Citizens' Matters.

SUBJECT: CITIZEN'S MATTER - JOHN TARANTINO

Mr. Tarantino presented a satirical song about upcoming transportation projects and bus riding in Durham.

SUBJECT: CITIZEN'S MATTER - BETH BRUCH

Ms. Bruch, Durham resident, spoke in opposition about Durham police being militarized; and presented Council with a petition titled, *Demilitarize! Durham 2 Palestine Community Signatures*, dated 4/4/18, and spoke in its support along with participatory budgeting.

SUBJECT: CITIZEN'S MATTER - AJAMU DILLAHUNT, JR.

Mr. Dillahun, Jr., local college student, read the introductory text to the *Demilitarize! Durham 2 Palestine* petition; provided statistics on the signatures gathered; and urged investment in black and brown futures by supporting affordable housing, health care and livable wages for workers.

SUBJECT: CITIZEN'S MATTER - PETER REITZES

Mr. Reitzes, local educator, asked Council to not let Durham boycott Israel and not be influenced by those who wish to defund our Police and encouraged Council to not be the city that demonized Jews.

SUBJECT: CITIZEN'S MATTER - STANLEY ROBBOY

Mr. Robboy, local educator, addressed the petition that raised issues that were purposefully divisive, demonized Israel and insulted Durham Police and its leaders; urged positive change; and hoped the Council did not pass the resolution.

The Mayor asked if there were any announcements from the Council Members.

Council Member Alston announced the Council's Legislative Committee was meeting Friday, April 6th, 2018 in the Committee Room.

Council Member Middleton explained that Council Members were casually dressed in preparation for Opening Day at the Durham Bulls' Ballpark.

Mayor Schewel announced that Council would proceed with discussing the resolution as requested by Council Member Freeman.

SUBJECT: RESOLUTION TO REMOVE LOOSE AND BONDED TIRE RUBBER MULCH FROM EAST DURHAM PARK PLAYGROUND AND REPLACE IT WITH ENGINEERED WOOD FIBER

Council Member Freeman expressed support about the removal of tire mulch at East Durham Park due to the mulch being a choking hazard, the toxicity of the mulch was under review, and requested the mulch be removed.

Kristin Henry of North Briggs Avenue, made statements reflecting concerns about the chemical elements of tire mulch, requested the mulch be removed and replaced with wood mulch in East Durham Park.

Council Member Middleton asked if children were in imminent danger and what was the staff's recommendation on the issue.

City Manager Bonfield stated that staff provided a report on tire mulch last Fall and that the EPA was currently conducting a study about its chemical compounds and health risks; and that staff conducted independent research analyses of the compounds which was inconclusive- no judgment has been made; and remarked that if Council chose to remove the tire mulch, it could be accomplished.

Council discussed the pros/cons of the tire mulch and the potential health risks and measures to resolve the community's concerns.

Ms. Henry stated there were no exposure studies from children who had played in the tire mulch; and would resend the peer review studies to Council.

Council Member Middleton stated for the record that, "There are a whole lot of citizens out there who are concerned about a whole lot of things who want us to spend some money on some stuff pending definitive scientific basis; so as decision makers, policy makers, if we're going to cross the Rubicon on this which I'm inclined to do. I just want us to keep in mind that moving forward they'll be some other groups coming to us who may not have all the scientific you know variables substituted but who would like us to spend money to fix things. With that, I'll yield."

Council Member Freeman responded to her colleagues comments; spoke to the genesis of lead being toxic to children; and spoke to erring on the side of caution of not having reactive chemicals around children.

Council echoed concerns and spoke in support of the removal of the mulch in East Durham Park.

City Manager Bonfield explained that at the time of installation, tire mulch was considered a state of the art surface recommended by the National Park and Recreation Association, protecting against slip and falls; noted the installation was funded with grant funds; and asked for Council's direction.

Mayor Schewel explained his reservations about the removal; explained that if the surface was removed, it was being removed due to the community deciding it did not want to use the park; favored making decisions based on science and that there was not science to support the removal; and observed there was a majority of Council that supported removal.

Council Member Middleton spoke to the precedent being established.

Mayor Schewel requested the City Manager to move forward with the removal and any alternatives would be welcomed.

As a point of procedure, Mayor Schewel read the names of persons at the meeting who signed up to speak on Item #20, Old West Durham Neighborhood Protection Overlay; stated that public comment was not taken on public hearing items at Work Sessions and explained the legal rationale; and invited the individuals to attend the regular Council meeting scheduled for Monday, May 7, 2018 where their comments would be publicly heard.

Mayor Schewel made an announcement regarding a statement by City Council that spoke to Police ties with Israel; explained that citizens' comments were heard today regarding Durham Police training with Israeli Police; stated that many comments had been heard on both sides of the emotional issue and appreciated the passion of persons; and referenced a memo from Chief Davis to City Manager Bonfield, dated April 4, 2018, the text of the memo follows:

"Regarding the concerns of certain interest groups on the issue of police/military training in Israel, my training experience in Israel had nothing to do with terrorism tactics, military tactics, or the use of or exposure to, military equipment. My specific visit was based on developing leadership academies, leadership principles, and the challenges experienced with building community and police relations with the growing homeless population in the US, comparable to Sudanese populations in Israel. The Atlanta Police Leadership Institute (APLI) was an assigned project under my leadership and is well regarded as a curriculum designed to groom bright and extremely prepared Atlanta Police leaders of tomorrow. This highly academic training has no police operations component, and challenges selected participants to become 21st Century police leaders.

In addition, there has been no effort while I have served as Chief of Police to initiate or participate in an exchange to Israel, nor do I have any intention to do so. During my short tenure, I have been quite focused and intentional in building stronger police and community relations here in Durham."

Mayor Schewel read the 'Statement from the Durham City Council'; the text of the statement follows:

Statement from the Durham City Council

"The Durham City Council appreciates receipt of the memo dated April 4, 2018 from Chief C.J. Davis to City Manager Tom Bonfield stating that "there has been no effort while I have served as Chief of Police to initiate or participate in any exchange to Israel, nor do I have any intention to do so." The Durham City Council endorses this statement by Chief Davis and affirms as policy that the Durham Police Department will not engage in such exchanges.

The Council opposes international exchanges with any country in which Durham officers receive military-style training since such exchanges do not support the kind of policing we want here in the City of Durham.

We recognize and share the deep concern about militarization of police forces around the country. We know that racial profiling and its subsequent harms to communities of color have plagued policing in our nation and in our own community.

In Durham, our community is working towards a time when we are beyond policing—when everyone has a good job and excellent health care and a safe, warm, affordable place to live. Until that time comes, we want policing that is founded on earning the trust of the community. We want policing that effectively reduces gun violence without any racial profiling ever. We want policing and a justice system that do not criminalize small acts such as drug possession.

We are moving in that direction in Durham. Under the strong, persistent leadership of Chief Davis and her staff, the police department is undergoing a profound cultural shift which is evident in the numbers in the annual reports we have just received for 2017.

The reporting shows that while violent crime is on a 17-year downward trend in Durham, we are also undergoing an extremely dramatic shift in the way Durham is engaging in police work. Traffic stops in recent years have dropped from 32,227 to 11,578. Searches of cars have dropped from 1,296 in 2013 to 416 in 2017. Charges for drug violations in Durham are down from 1,223 in 2015 to 673 this past year. Our new Misdemeanor Diversion Court has kept hundreds of first-time offenders free of a criminal record. Use-of-force complaints by residents are down from 33 in 2016 to 15 last year. Chief Davis' new U-Visa policy has resulted in immediate improvement for our undocumented residents who assist in solving crimes, as 35 residents received U-Visa approval from the department in the first quarter of 2018, far more than ever before.

An array of new police department policies and practices are working in Durham, and – as the numbers above show with striking clarity – these reforms are today making a positive difference in the lives of thousands of people, especially in communities of color.

The Council knows that we still have much progress to make. Although police searches have dropped precipitously among all groups, black motorists are still more likely to be searched than white motorists, and we need to continue efforts to ensure that the racial make-up of our police department more nearly represents Durham's diversity.

The Council is deeply committed to this work, and we are grateful to Chief Davis for leading this cultural shift.

Black lives matter. We can make that phrase real in Durham by rejecting the militarization of our police force in favor of a different kind of policing, and that is what we are doing in Durham now.”

After Mayor Schewel read the Statement, Mayor Pro Tempore Johnson read her email on the matter.

Following Mayor Pro Tempore Johnson's remarks, Council Members responded in support of the statement made by Mayor Schewel and remarks by Mayor Pro Tempore Johnson; and spoke to their rationale and their unanimous plans to endorse the Mayor's Statement.

Council Member Alston stated for the record that, “I do not want this to be an organization or an organization with a culture of militarizing our law enforcement officials or to create a culture where that kind of militarization is explicitly or implicitly supported so I just wanted to say very clearly that I do not support the militarization of our law enforcement or the participation of any of our staff in training exercises like that at issue here today. And, I wanted to thank the Mayor for preparing the statement and say that I plan to endorse it.”

Mayor Schewel reiterated that Council would be taking up the item at the beginning of the April 16th regular Council meeting as a statement by Council and noted that speakers would be permitted at that time.

SUBJECT: PARTICIPATORY BUDGETING (PB)/FOLLOW-UP (ITEM #5)

City Manager Bonfield explained that as a follow up to the item addressed at the previous Work Session, the item was put back on this Work Session to seek direction by Council on PB policy questions.

Mayor Schewel stated there were speakers to the item.

Ananda Ghosh of Eagle View Drive, noted PB was experimental in civic engagement and the concept had his support and encouraged its full funding of \$2.5 million.

James Chavis of Ashe Street, explained that Durham residents did not understand the concept of PB and that the concept needed to be explained more fully; asked about the source of funding and wanted all the people to understand the use of tax monies and did not want taxes to increase.

Rann Bar-On of North Driver Street, spoke in support of PB to build public trust, its implementation and full funding of \$2.5 million in order to make serious impact in neighborhoods.

Jess Issacharoff of Perkins Road, addressed the need for residents in the city to feel empowered to influence city government and what happens in the city; and encouraged full funding of PB to incorporate parents of children at Brogden Middle School into the local government process.

Council reviewed the documents from Mayor Pro Tempore Johnson about the creation of the PB Steering Committee's scope and decision-making authority between Council, the City Administration and the Steering Committee.

Mayor Schewel explained the administration needed clarification on the Steering Committee's scope, amount of funding and timeline.

Mayor Pro Tempore Johnson explained that the document for discussion was divided into three sections that mirrored one another but pertained to Council making decisions on various criteria, consulting on various decisions and its responsibilities; the following two sections included similar criteria for the City Administration and the PB Steering Committee. Additional pages included the Mayor Pro Tempore Johnson's recommendations on how the Council would make decisions and the timeline of the PB process.

Mayor Pro Tempore Johnson explained her expectation was for Council's discussion of the scoping and decision making criteria; to make a decision on the next steps and move the process forward.

Discussion ensued about the content, section by section and voiced many questions.

Mayor Schewel suggested organizing a sub-committee of three Council Members to work on the logistics of PB Steering Committee and then to bring their results forward at the next Work Session; and encouraged the sub-committee to focus on the issues of scope of the steering committee, funding levels and timeline for staff's information.

The Council Sub-Committee on PB would consist of the following: Chairperson Caballero and members, Council Member Alston and Freeman along with City Manager Bonfield and Budget Director Bertha Johnson; in two weeks, the sub-committee was tasked with responding to Mayor Pro Tempore Johnson's proposal. Mayor Schewel encouraged the rest of Council to provide their feedback to the sub-committee.

[PRESENTATIONS]

SUBJECT: SOUTH ROXBORO STREET RESTRIPIING PLAN (ITEM #17)

Terry Bellamy, Director of Transportation, deferred to Bill Judge, Assistant Director of Transportation, to update Council on the project. Assistant Director Judge made the following PowerPoint presentation:

South Roxboro Street Restriping Plan April 5, 2018

S. Roxboro Restriping Plan

- Roads scheduled for resurfacing are evaluated to see if streets can be made safer and/or bicycle and pedestrian improvements added
- S. Roxboro Street between Martin Luther King Jr. Pkwy. and Hope Valley Road identified as an under capacity corridor with existing speeding and crash history concerns
- Restriping plan proposes removing a vehicle lane between Juliette Drive and Sandy Creek Drive and adding a buffered bicycle lane

Background

S. Roxboro Restriping Plan

- Department has received many complaints over the years about speeding vehicles and lack of yielding to pedestrians on South Roxboro Street
- Speed limit 35 mph, 85th percentile speeds in January 2018 between 44-47 mph.
- 48 reported crashes on between Juliette Drive and Hope Valley Road over a 5-year period (October 2012 – September 2017)
- Past projects on Main Street, Durham-Chapel Hill Blvd, Erwin Road have found reducing the number of lanes results in lower speeds and increased safety for all users

Safety

S. Roxboro Restriping Plan

- Information and the restriping plan posted on the City's website in Fall 2017 asking residents for comment
- 427 residents responded, both positive and negative
- Main concerns: congestion, tailgating, current lack of bicyclists, difficulty turning onto South Roxboro Street

Public Engagement

S. Roxboro Restriping Plan

- On March 7, meeting held at Southwest Elementary School for residents to ask questions and provide additional comments
- More than 50 people attended, and of comments received at the meeting and after 45 were positive, 18 negative, and 2 neutral
- In response to comments, two changes to the plans were made:
 - Construction of a traffic signal at S. Roxboro Street and Juliette Drive
 - Improved Third Fork Creek Trail crossing

Public Engagement

S. Roxboro Restriping Plan

- Proposed restriping aligns with City's adopted Vision Zero program
- Excess road capacity increases speeds, reduces safety for all users, and limits use of the road by all users

Vision Zero

S. Roxboro Restriping Plan

- Addition of bicycle lanes provides a safer and more direct connection between the American Tobacco Trail and Third Fork Creek Trail
- Pedestrian connectivity between neighborhoods improved with easier crossing of S. Roxboro St at intersections
- Street will be reassessed when South Roxboro Street is realigned and extended in the future (currently unfunded)

Connectivity

S. Roxboro Restriping Plan

- Department recommends that Public Works resurface the road using the proposed restriping plan
- Resurfacing will occur in summer of 2018 as part of ST-285
- Speed and traffic counts will be conducted following the resurfacing
- Bicycle lanes are also planned to be installed on East Main Street between Fayetteville St and South Roxboro Street

Next Steps

Council emphasized the importance of the project due to the need to make South Roxboro Road safer due to driving hazards; thanked staff for putting the project forward; appreciated the inclusion of bike lanes along South Roxboro Road; expressed concerns about the lane widening on Rt. 55 and Alston Road; encouraged conversations at the neighborhood level; indicated that stripings were a staff matter and did not require such projects being brought before Council;

Council Member Reece asked about a letter from Bike Durham containing recommendations about protected bike lanes on four projects in the pipeline; and asked what it would take to get cost estimates for the four projects and adding protection for bike lanes in Durham.

Director Bellamy responded that staff had received a lot of correspondence and was developing a response; stated the plans had been established in 2014 in accordance to the standards of the time; since Council adopted the Bike/Walk Plan, standards had changed; noted that certain corridors allowed for protected bike lanes, others did not due to the number of driveways and amounts of right of way to be purchased; updated Council on the Hillandale Project concept with separated facility or side path, Fletcher outreach was underway, Morreene Road comments had been received and Cornwallis was underway; stated that based on current construction market in region, estimated between 4:1 or 5:1 due to the need to buy private property.

Council Member Reece encouraged the installation of concrete bollards, waist high reflectors and the like between road ways and bike lanes.

SUBJECT: 2017 GODURHAM ON-BOARD PASSENGER SURVEY (ITEM #18)

Terry Bellamy, Director of Transportation, deferred to John Dodson, GoTriangle's Team Transit Service Planner and Hugh Clark of CJI Research/Columbus, Ohio, to present survey findings to Council on the project.

Presentation included abbreviated updates on customer satisfaction, characteristics of travelers, demographics of ridership and Uber/Lyft impact on the market.

GoDurham Passenger Survey 2017

Top Scores for Each Component of GoDurham Service

Service Ratings

Percent Naming Each Aspect of Service as One of the Top Three to Improve

Economic Impact: Why People Are Using GoDurham

(All Trip purposes in the past month. Multiple Reasons Included.)

Duration of Ridership

Use of Multiple Systems

Change of Bus

Short Term/Long Term Fares and Discounted Fares

Income

Vehicles Available in the Household

Ethnicity

Age

Uber or Lyft

Contact

For further questions, please email hughclark@cjiresearch.com

Council inquired about:

Definition of GFI- General Fare Information – record collected by electronic fare box

Survey asked how did person reach the GoDurham bus.

Was GoDurham conducted in tandem with the Employee survey? No.

Vehicle available for use was not same as vehicle available for use with taxes and insurance covered. Yes. Survey asked if persons had valid drivers' licenses.

Was there a reason that Chapel Hill buses were not covered in survey. Access from other systems showed buses in 'other' category and the consultant would check on the figure. Persons who filled in other and look at their answers.

What was more important- cheaper fare/free fare or better and more service. It was requested this question be asked in the next survey. The question could be posed as 'What would you prefer free fare in current service or service until midnight'.

What routes could be displaced by Uber/Lyft. This was a tough question to answer. For the routine traveler using the same buses for commuting, this was the source of the system's bread and butter.

Was survey conducted only in English? No, survey was conducted in English and Spanish.

Possible to add a question that dealt with the perception of bus being on time. Question was worded as the predictability of bus arrival. Transit app could provide predictable, accurate times of the bus arrival.

SUBJECT: PRESENTATION AND ADOPTION OF THE DOWNTOWN DURHAM MASTER PLAN UPDATE (ITEM #19)

Summer Alston, Office of Economic and Workforce Development, recommended that Council receive a presentation on the adoption of the Downtown Durham Master Plan and that Council adopt an update to the Master Plan as Durham's community guide to Downtown development; and stated the Master Plan was a culmination of community input.

Matt Gladdek, Director of Policy and Planning at Downtown Durham Incorporated (DDI), delivered the presentation and responded to questions; addressed the vision statement and diversity goals; conducted focus groups and public meetings with approximately 800 participants. Nicole Thompson, Director of DDI, was available for questions.

An outline of the presentation follows:

MASTER PLAN PRESENTATION

Matt Gladdek

April 2018

- Downtown Master Plan, a Framework for the Future
- Vision Statement
- Outline of Public Participation, Vision & Themes, Major Moves, Implementation
- Public Participation
 - Steering Committee
 - 36 Stakeholder Interviews
 - Focus Groups
 - 4 Public Meetings
 - More than 800 persons involved, so far
- Downtown Framework
- Design
- Connectivity
- Logistics
- Diversity
- Retail Clusters
- The Loop & One-Ways
- Parking
- Collaborative Redevelopment
- Diversity
- Next Steps: Implementation

Mr. Gladdek continued his presentation by explaining there was support for the two-way Loop for connectivity and more pedestrian friendly location, activation of public spaces, work on gateways, concentrate on public transport to access Downtown, employ parks in dead zones, explore linkages with neighborhoods, expand parking options and partnerships for amenities, programming and more diversity in Downtown core. Additionally, marketing communications to diverse groups and promotion of what is special in Downtown; diversity is major part of Downtown with racially diverse types of businesses along with diverse price points, diverse housing types and price points, and adding racial and cultural diversity in Downtown. Diversity Advisory Committee was being created to represent many types of people in Downtown; spoke

to collaborative redevelopment; and provided examples of the plan's implementation and next steps.

Council voiced support for the Master Plan's diversity goals and spoke to how to get diverse price points in Downtown, either by smaller sizes of retail/office or with subsidy/innovation.

Mayor Schewel noted there was new retail space coming online in the city's new parking garage and asked if DDI had had discussions with city staff for smaller, more affordable offices that would attract a more diverse clientele to that space.

Mr. Gladdek responded that the direction of the loop was an obstacle and that piloting an innovative but difficult retail situation may set retailers up to fail; explained the obstacles of a current retailer, Tire King; and encouraged TIGER grants for the Downtown Loop redesign.

Mayor Schewel explained that subsidized funds were being used for housing; and where would subsidies for retail be sourced.

Mr. Gladdek stated there was a lack of retail space in Downtown.

Nicole Thompson, Executive Director of DDI, explained that commercial brokers and property owners showing Downtown street-level spaces were willing to hold off bringing in national retailers in favor of local retailers, often minority businesses.

Mayor Schewel encouraged DDI to consider retail at the street level of the new parking garage.

City Manager Bonfield interjected that the city was getting ready to engage a broker to address Downtown retail.

Council Member Middleton disclosed he was on the DDI Board; asked about the tension between apartment construction versus that of office space; and how was job generation was balanced with residential.

Mr. Gladdek responded by mentioning Form Based Code of the City-County Planning Department; based on this code, instead of stopping development, it would be necessary to build timber multi-family parcels, in Downtown Durham due to being inexpensive and highly profitable; and that it was leaders' responsibilities to do what was possible to shape the Durham market; and announced there were nearly 1400 units being constructed north of Rt. 147 and south of the railroad.

Mayor Schewel stated the implication was how the city was incentivizing office space.

Mr. Gladdek responded the market was pushing development one way (primarily residential) and that a public subsidy could be provided to push the market in another direction (toward office).

Mayor Schewel thanked DDI and OEWD staff for working together and composing the excellent report.

**SUBJECT: OLD WEST DURHAM NEIGHBORHOOD PROTECTION OVERLAY (NPO);
(ITEM #20)**

Matt Filter, Senior Planner in the City-County Planning Department, made the PowerPoint presentation and overview; briefed Council on the project and answered their questions; stated the public hearing would be held on May 7, 2018.

Presentation Name: OLD WEST DURHAM NPO, APRIL 5, 2018

Purpose (OWDNA NPO TC1800001 & Z1800002)

- Brief you on the project & answer questions
- Has generated significant neighborhood interest
- City Council public hearing scheduled for May 7, 2018
- Planning Commission recommended denial (5-4) on March 13, 2018 after public hearing
- JCCPC briefed most recently on January 3, 2018

Overview

- NPO Background
- OWDNA Application
- NPO Drafting Process & Outreach
- NPO Content
- Key Issues

What is a NPO?

- Zoning overlay tool created in 2006
- Allows residents to create custom zoning overlays for their neighborhood to protect established character from incompatible new development
 - Resident initiated
 - Does not replace, but modifies current zoning
 - Generally more restrictive (but not always)
 - Ultimately a rezoning (map + text amendment)

What is a NPO?

- Durham has 1 NPO (Tuscaloosa-Lakewood, 2008)
 - Chapel Hill: 10
 - Raleigh: 18
- Per State law, cannot regulate architectural standards or building materials of single family or duplex homes
- Is not a historic district or HOA

What is the NPO Process?

1. **Neighborhood submits application**
 - Design elements, regulatory items
 - Signatures of property owners (51% -- recommended)
2. **Staff reviews to ensure approved criteria is met**
 - Consistent character, 25+ years, 15+ acres, etc.
3. **JCCPC reviews and prioritizes**
 - Recommends addition to work program

2014 – OWDNA submits application

- 428 parcels
- 295 unique property owners
- Focused on residential blocks
- 94% residential ELU
- Modest single family and duplex homes on urban lots

Current Zoning

- RU-5, RU-5(2)
- Current zoning:
- Single Family
- ADU
- Duplex (in RU-5[2])
- Townhomes (limited)

Neighborhood Application & Concerns

- OWDNA submits application in 2014
- 29% of unique property owners
- Growing concerns:
- Demolitions
- Large infill homes
- Destruction of tree canopy
- Over-paving

OWDNA Concerns: Today, Future, Application

OWDNA application cleared staff sufficiency review

JCCPC reviewed at November 2014 meeting

Added to work program approved by both governing bodies

Kick-Off Meeting: 1/31/2017

Outreach

Resident-led initiative; OWDNA takes lead in drafting

4 drafts, rounds of concessions/compromises made

Staff provides technical support

200+ unique participants

3 publicly noticed meetings over course of one year

12 additional OWDNA meetings

NPO is a product of...

- 3 large public workshops
- 2 town hall meetings
- 10 smaller neighborhood meetings / information sessions
- 20+ working group meetings
- Many, many listserv email chains
- Fieldwork
- Data analysis
- Flyers/posters/door knocking
- 3 JCCPC briefings

Working Group Meetings

November 2018 Meeting – Review Draft

Opposition Concerns:

- Too restrictive (limits reinvestment, creativity, etc.)
- Current zoning is adequate
- Not enough demonstrated support by property owners
- Harm property values
- Opposition
- Formal opposition as of 1/31/18:
- 27 property owners (9% of unique property owners)
- 106 parcels (25% of total parcels)

OWDNA Goals for NPO Proposal

Use standards that:

- “Discourage teardowns and new construction that overwhelms OWDNA scale and character”
- “Recognizing that increasing the size of structures and paved parking area reduces amount of green space and trees”
- “Encompass 80-90% of the current built environment”
- “Provide flexibility for homeowners to conduct reasonable upgrades and expansions consistent with the neighborhood character.”

Draft Components

- Bulk (Floor Area Ratio)
- Height
- Lot Dimensions
- Trees
- Parking

When does it apply? Applies only to new single family and duplex development activity

New construction, Additions, Construction, Expansion of Certain Accessory Structures, Driveways and Additions

Driveways

Not “retroactive”; only triggered upon development activity

Does not change permitted land uses

Same land uses allowed under NPO as current regulations

1. Primary & Accessory Structure Bulk (FAR)

Most discussed and debated topic in NPO; no current limit on SF beyond setbacks, height

Proposal caps structure square footage relative to lot size to control bulkiness of structures; reflect existing character and rhythm

$$\text{FAR} = (\text{Heated square footage of primary structure} + \text{total square footage of qualifying accessory structures}) / \text{lot size}$$

32.5% FAR

Working group started in low 20s (75th percentile); first draft was 30.0%; final draft was 32.5% with exemptions that technically make it higher

Each parcels guaranteed a minimum of 2,200 SF and 3,600 SF

You can exceed FAR if you convert unheated fully enclosed square footage to heated square footage (“attic provision”)

Exempts basements

Accessory structure shall not exceed 50% of HSF of primary structure and not exceed 700 SF

If used for ADU, this bumps current standard of 30% to 50%

Potential NPO Impact on ADUs

Cons:

- Additional regulations = possible cost, complications in process
- New cap on total size (accessory structure cannot exceed 700 SF) and height could limit creative flexibility and certain efficiencies
- A small # of OWDNA SF homes won't be able to add ADUs because they are at or near the FAR cap

Pros:

- Proposed regulations up the % of heated square footage to 50%
- This makes ADUs more market viable and permissible under building code by giving smaller homes a viable option for construction

- Bottom line: more ADUs allowed while ensuring contextual development
- Possible Net Increase in ADU Supply under NPO

2. Height

Current Regulations: Height is measured by taking the average of the roof pitch

Primary structure: Maximum height allowed is 35', however, can go up to 45' with a 1:1 setback; Infill homes can't be more than 14' taller than neighboring properties

Accessory Structure: Cannot exceed 25' when within 5' of property line

Proposed Regulations: Establish a new height measurement – "apex height" and set apex height cap to 31'

Reduce primary structure midpoint height from 35'/45' to 26'

Sets new accessory structure height of 24' (apex) and 20' (midpoint)

Essentially accommodates a full 2 story home and a 1.5 story accessory structure with dormers

85% of OWDNA homes are single story homes

Average height (sample): 15'7" midpoint; 19'9" apex

Minimal impact on new primary structure construction (as being currently built); may reduce height of two-story ADU's (as currently built)

3. Lots

Applies to new subdivisions or consolidations

Standardize built environment to reflect existing subdivision pattern

Prevent out-of-context assembly or subdivision

Does not prevent development activity on small # of lots that would become nonconforming

Current regulations:

No maximum lot area

Minimum lot width varies based upon acreage of new project, type of use, and or/lots of neighboring properties

Flag lots permitted

3. Lots

Proposed regulations:

Maximum lot area of 12,000 SF & Minimum lot width shall be 50' & Flag lots prohibited

4. Trees

- OWDNA concerned that some new development is scraping lots of all existing tree canopy, particularly in backyard
- Current regulations:
- New construction = planting of 2.5' caliper street tree per 40' of street frontage, placed within 30' of the right-of-way
- No other tree requirement

Proposed regulation:

- A rear backyard canopy tree of 2'+ in caliper
- Can have more if you'd like
- Existing trees count (not a requirement to add trees if you already have them)
- Enforcement would be complaint driven

5. Parking

- OWDNA would like to prevent "over-paving" and encourage the retention of green space
- Garages and wide driveways are not common features in OWDNA
- Reduction in parking # requirements = less need for paving
- Less paving = ideally more green space
- Current regulations:

- Driveway widths cannot exceed 25' in width (unless shown on plot plan) and location must conform to predominant character
- 2 spaces per unit; 0 for ADU (*this was changed due to OWDNA's idea)

Proposed regulations:

- Establishes a maximum width of 12' but allows an expansion of an additional 400 SF out to 24' in width behind front building line
- Reduces off-street parking requirements to 1 per dwelling unit
- For example, a duplex would currently be required to 3-4 spaces; in OWDNA this would be reduced to 2 spaces

Next Steps:

- Planning Commission held public hearing on March 13th and recommended denial 5-4
- Denial perspective: opposition voices, existing zoning ok, more opportunities for compromise?
- Approval perspective: support voices, limited impact, one of few tools available, recognized concern about bulkiness
- City Council public hearing scheduled for 5/7
- Recommend you take action at this meeting (June = budget; July = recess)

Issues:

- Level of neighborhood support
- Legislative decision
- Among those who have participated in the process (meetings, listserv, etc.), many have been supportive
- Vocal opposition concerned about restrictiveness and levels of support among property owners
- There is no official threshold or vote required to define "support" of the draft
- Issues
- NPO Content
- NPO is one of only tools available to neighborhoods
- Reflects years of grassroots outreach and consensus building
- Various positive and negative consequences, detailed further in staff report
- Most regulations far exceed the existing built environment today, but may constrict new development activity which tends to be larger than previous generations
- Regulations are OWD
- NA's best (a) balance of new and old and (b) compromise they could reach after 4 drafts, 15 public meetings, active listserv discussions, etc.

Issues

- City-County NPO Process
 - The process is governed by approved NPO policy (as well as the UDO for a rezoning and text amendment)
 - This process has closely followed spirit and letter of policy and law
 - Upon completion of project, Planning will propose options for improvements and changes to the existing policy for review by governing bodies
 - Authorization before governing body? More signatures? Cost?
 - Issues
 - Affordability / Affordable = qualitatively and relatively speaking, sometimes meaning "less unaffordable"
- Property values in OWDNA rising and will continue to rise (regardless of NPO)
 NPOs not designed to be an affordable housing tool
 All else being equal, limiting size could make new development more affordable than the

alternative (although certainly not necessarily affordable)

Issues of Affordability & Supply

- Housing will continue to be less and less affordable if supply does not keep up with demand (from a regional, macro level)
- “Expanding Housing Choice”: Planning is working with partners to look at increasing the supply of missing middle housing, much of which is severely limited or prohibited under current regulations
- OWDNA would not be exempted from any such proposal
- Issues

Affordability & Supply

- However, zoning/supply alone is not a solution to affordability issues, other factors: construction costs / limitations, wages of residents, zoning in Raleigh and Chapel Hill etc.
- Increasing supply alone will also not protect hot or gentrifying neighborhoods
- How does NPO affect supply?
- NPO only applies to Single Family and Duplex uses (not triplexes, etc.)
- NPO continues to allow Single Family, Duplexes, ADUs, townhomes, etc.; does not restrict uses, although will force choices and tradeoffs among some property owners
- May limit supply in limited circumstances, but will also increase supply in other circumstances
 - May limit a single family home over the FAR cap from adding an ADU
 - 30% to 50% bump also allows many other homes to add an ADU
 - Net projected increase in allowed ADUs under NPO (+110 for 400 SF ADU)

Mr. Filter provided details on background on the overlay and its application, drafting process and outreach, the content of the NPO, and several issues that were broader than the NPO and that needed to be brought to Council's attention.

Mr. Filter explained the background of the NPO that was resident-initiated, five-step process; currently, there was one NPO in effect in Durham (Tuscaloosa/Lakewood); indicated that a NPO was a modification of base zoning, not a replacement and the NPO could not regulate building materials or architectural details. Explained the NPO five step process- application, staff review, approval at JCCPC (Joint City-County Planning Committee), overlay development process, and approval at Council or County Commissioners; the NPO consisted of 295 residential parcels and presented photos of the homes in conjunction with descriptions; and discussed process and public outreach over the last year.

Mr. Filter explained the neighborhood's goals and five components: floor area ratio, bulk/height, lot dimensions, trees and parking; every use in the zoning categories was still allowed under the NPO; spoke to Accessory Dwelling Units (ADU's) and explained when the NPO regulations applied and when they did not.

City Manager Bonfield asked about the proposal from the community; and asked if this was an up/down vote by the Council or did the Council have ability to adjust certain items that were being advanced.

Mr. Filter confirmed that the official petitioner was Pat Young, City-County Planning Director, and noted that Council had the authority to make changes.

Council Member Freeman inquired about the timeline, how it started, and how was the West Durham NPO delayed.

Scott Whiteman, Planning, explained there were two other historic districts processing in the Planning Department (Golden Belt and Cleveland/Holloway) which were handled prior to West Durham's NPO.

Mr. Filter relayed the fact that residents of Tuscaloosa/Lakewood HOA were pleased with their NPO; and explained the differences between the NPOs.

Pat Young, Director of City-County Planning, addressed the primary concern was impacts on opportunity access to current housing choices; explained that staff was looking at increasing the type of housing allowed with tri and quad-plexes with considerations of not overwhelming current housing stock; and spoke to lot sizes, widths and flag restrictions that impeded diversity in housing styles and price points; and wanted to emphasize that nothing in the NPO would prevent the city from applying these criteria.

Director Young would bring forward information on the impact of duplexes and larger multiples on the neighboring single family homes.

Council Member Freeman asked about tax implications of multi-family in single family areas; and spoke the need for small area planning conversations to take place.

Director Young spoke to ensuring neighborhood character be preserved with high quality design and contact sensitive design with special mention of tri and quadplexes; and noted west coast communities were making a lot of progress in this area.

The City Clerk announced the results of the ballots for the Durham City-County Appearance Commission Appointments: Council nominated Richard Crawford and Leslie A. Mason to fill the two vacancies on the Appearance Commission with the terms to expire on April 1, 2021. Additionally, Council nominated the following individuals to serve on the newly established City-County Committee on Confederate Monuments and Memorials with terms to expire year ending 2018: Stephanie Ford, Cynthia R. Greenlee, Barbara A. Lau, Deondra Rose and Elizabeth B. Sappenfield.

Settling the Agenda – April 16, 2018 City Council Meeting

City Manager Bonfield referenced the following items for the April 16, 2018 City Council Meeting: Consent Agenda Items #1-4, 6-16 and 19; General Business Agenda - Public Hearings Items #21-28; and the Statement would be placed under Announcements by Council.

Council Member Middleton inquired about the nature of the vote on the Palestine issue would be for the approval of the statement. It was confirmed that this was the case.

MOTION by Council Member Alston, seconded by Council Member Freeman, to approve the City Manager's agenda at 5:10 p.m.; the motion passed unanimously.

MOTION by Mayor Pro Tempore Johnson, seconded by Council Member Reece, to adjourn; the motion passed unanimously.

There being no further business to come before the Council, the Work Session was adjourned at 5:11 p.m.

Diana Schreiber
City Clerk